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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/811,569

03/29/2004

William J. Pulte

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25215 7590 12/20/2006  
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EXAMINER

FIGUEROA, ADRIANA

ART UNIT

PAPER NUMBER

3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/20/2006

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,569	<b>Applicant(s)</b> PULTE, WILLIAM J.	
	<b>Examiner</b> Adriana Figueroa	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because in line 2, the phrase "the first surface the second surface" is grammatically incorrect.

Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities: Page 3, Line 7, the word "through" is misspelled.

Appropriate correction is required.

### ***Claim Objections***

3. Claim 20 is objected to because of the following informalities: in line 2, the word "lines" is misspelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3-9, 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, in lines 2-5, and claim 11 in lines 6-9 it is unclear if the first and second edges are only for the first surface or includes the second surface and the stepped arcuate surface.

Claims 5, 6, 9, 14,15, 18 recite the limitation "first rake member" and "second rake member". It is improper to recite the rake ridge cap in terms of the first and second rake members when the claims are directed to a cap per-se.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9, 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker (US 250,637).

Regarding claim 1, Baker discloses a cap comprising a first surface (F); a second surface (S); and at least one stepped arcuate surface (c) intersecting said first surface and said second surface, (annotated Figure 1).

Regarding claim 2, Baker discloses a cap wherein said at least one stepped arcuate surface (c) consists of an "L" cross sections, (Figure 1, annotated Figure 3).

Regarding claim 3, Baker discloses a cap having a first edge (1) of said first surface, said second surface, and said at least one stepped arcuate surface; a second edge (2) of said first surface, said second surface, and said at least one stepped arcuate surface; a third edge (3) of said first surface; an arcuate surface (6) that intersects vertically with said third edge of said first surface; a fourth edge (4) of said second surface; and a fifth edge (5) of said second surface, (annotated Figure 1).

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Regarding claim 4, Baker discloses a cap having said first edge (1) and said second edge (2) of said first surface (F), said second surface (S), and said at least one stepped arcuate surface (c). The phrase "are cut so said at least one stepped arcuate surface of said first edge intersects tangentially with the stepped surface of a first rake member and said at least one stepped arcuate surface of said second edge intersects tangentially with the stepped surface of a second rake member" is considered intended use and is given no patentable weight.

Regarding claim 5, Baker discloses a cap having an arcuate surface (6), and a first surface (F). The phrase "when is cut so that said at least one stepped arcuate surface intersects said first rake member and said second rake member, will intersect the undersides of said first rake member and said second rake member" is considered intended use and is given no patentable weight.

Regarding claim 6, Baker discloses a cap having a fourth edge (4) of said second surface (S). The phrase "is cut to be parallel to said first rake member and said fifth edge of said second surface is cut to be parallel to said second rake member" is considered intended use and is given no patentable weight.

Regarding claim 7, Baker discloses a cap having a plurality of stepped arcuate surfaces (c), (Figures 1, 3).

Regarding claim 8, Baker discloses a cap wherein said plurality of stepped arcuate surfaces (c) consists of "L" cross sections, (Figure 1, annotated Figure 3).

Regarding claim 9, Baker discloses a cap having said first edge (1) and said second edge (2) of said first surface (F), said second surface (S), and said plurality of

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stepped arcuate surface (c). The phrase "are cut so said plurality of stepped arcuate surfaces of said first edge intersect tangentially with the plurality of stepped surfaces of said first rake member and said plurality of stepped arcuate surfaces of said second edge intersect tangentially with the plurality of stepped surfaces of said second rake member" is considered intended use and is given no patentable weight.

Regarding claim 11, Baker discloses a cap comprising a first surface (F); a second surface (S); and at least one stepped arcuate surface (c) intersecting said first surface and said second surface; a first edge (1) of said first surface, said second surface, and said at least one stepped arcuate surface; a second edge (2) of said first surface, said second surface, and said at least one stepped arcuate surface; a third edge (3) of said first surface; an arcuate surface (6) that intersects vertically with said third edge of said first surface; a fourth edge (4) of said second surface; and a fifth edge (5) of said second surface, (annotated Figure 1).

Regarding claim 12, Baker discloses a cap wherein said at least one stepped arcuate surface (c) consists of an "L" cross sections, (Figure 1, annotated Figure 3).

Regarding claim 13, Baker discloses a cap having said first edge (1) and said second edge (2) of said first surface (F), said second surface (S), and said at least one stepped arcuate surface (c). The phrase "are cut so said at least one stepped arcuate surface of said first edge intersects tangentially with the stepped surface of a first rake member and said at least one stepped arcuate surface of said second edge intersects tangentially with the stepped surface of a second rake member" is considered intended use and is given no patentable weight.

Regarding claim 14, Baker discloses a cap having an arcuate surface (6), and a first surface (F). The phrase “when is cut so that said at least one stepped arcuate surface intersects said first rake member and said second rake member, will intersect the undersides of said first rake member and said second rake member” is considered intended use and is given no patentable weight.

Regarding claim 15, Baker discloses a cap having a fourth edge (4) of said second surface (S). The phrase “ is cut to be parallel to said first rake member and said fifth edge of said second surface is cut to be parallel to said second rake member” is considered intended use and is given no patentable weight.

Regarding claim 16, Baker discloses a cap having a plurality of stepped arcuate surfaces (c), (Figures 1, 3).

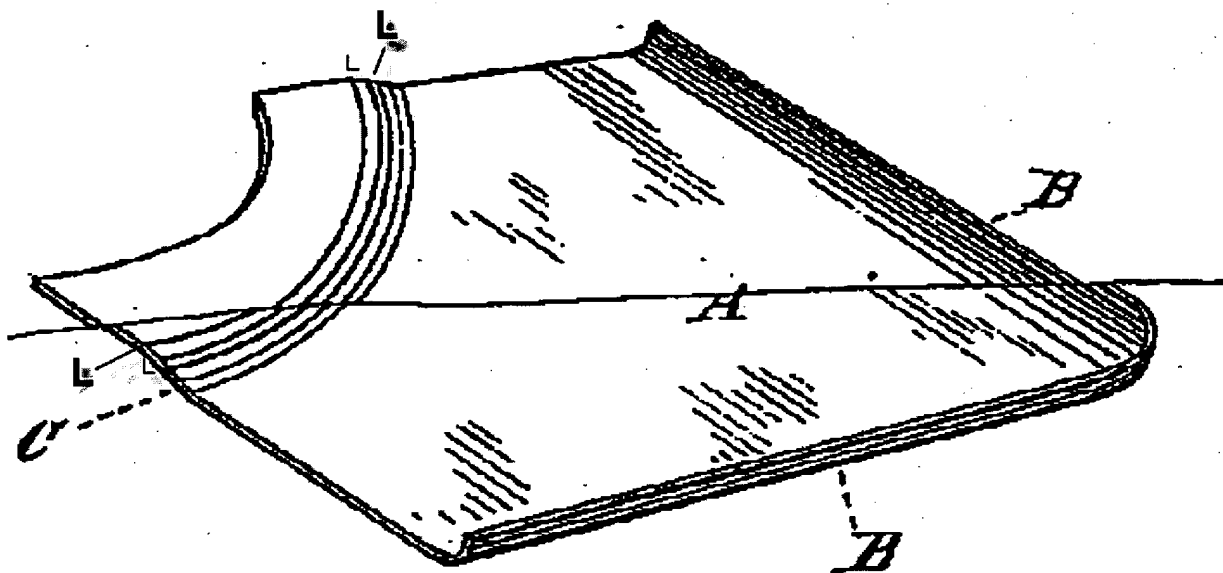
Regarding claim 17, Baker discloses a cap wherein said plurality of stepped arcuate surfaces (c) consists of “L” cross sections, (Figures 1, annotated Figure 3).

Regarding claim 18, Baker discloses a cap having said first edge (1) and said second edge (2) of said first surface (F), said second surface (S), and said plurality of stepped arcuate surface (c). The phrase “are cut so said plurality of stepped arcuate surfaces of said first edge intersect tangentially with the plurality of stepped surfaces of said first rake member and said plurality of stepped arcuate surfaces of said second edge intersect tangentially with the plurality of stepped surfaces of said second rake member” is considered intended use and is given no patentable weight.





*Fig. 3.*



Baker (US 250,637)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker (US 250,637) in view of Blubaugh (US 6,269,595).

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Regarding claims 10 and 19, Baker discloses as discussed in claims 1 and 11, but does not disclose the cap having a back side surface including indicia for demarking one or more guide lines for trimming. However, Blubaugh teaches a panel (2) having a back side surface including indicia, (Figures 3, 4), (Column 1, Lines 30-34, Column 2, Lines 23-25).

Regarding claim 20, Baker modified by Blubaugh discloses the cap having guide lines but does not disclose the guide lines being radially extending guide lines paired with tangentially extending guide lines. However, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have radially extending guide lines paired with tangentially extending guide lines in order to facilitate cutting of the cap to fit at its final location.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Babcock (US D20,407) teaches a roofing tile having first and second surfaces and a stepped arcuate surface. LeBlanc (US 6,216,407) teaches a cap having first and second surfaces and a plurality of stepped arcuate surface. Logan (US 5,457,923) teaches a cap having first and second surfaces and a plurality of stepped arcuate surface.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12/11/2006

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